

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01195-BNB

KARL A. ROBINSON,

Petitioner,

v.

THE UNITED STATES OF AMERICA,

Respondent.

ORDER OF DISMISSAL

Petitioner, Karl A. Robinson, is a prisoner in the custody of the United States Bureau of Prisons at the Federal Correctional Institution at Englewood, Colorado. Mr. Robinson initiated this action by filing *pro se* a Petition for Relief Pursuant to the Federal Tort Claims Act (ECF No. 1). On May 7, 2013, Magistrate Judge Boyd N. Boland entered an order directing Mr. Robinson to cure certain deficiencies if he wished to pursue his claims in this action. Specifically, Magistrate Judge Boland directed Mr. Robinson to file a Prisoner Complaint and either to pay the \$350.00 filing fee or to file a properly supported motion seeking leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. Mr. Robinson was warned that the action would be dismissed without further notice if he failed to cure the deficiencies within thirty days.

On June 5, 2013, Mr. Robinson filed a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 4). However, he has failed to cure all of the deficiencies within the time allowed because he has not filed a Prisoner Complaint as directed. Therefore, the action will be dismissed without prejudice for

failure to cure all of the deficiencies.

Furthermore, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status will be denied for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Petitioner files a notice of appeal he also must pay the full \$455 appellate filing fee or file a motion to proceed *in forma pauperis* in the United States Court of Appeals for the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

ORDERED that the Petition for Relief Pursuant to the Federal Tort Claims Act (ECF No. 1) is denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Mr. Robinson failed to cure all of the deficiencies as directed. It is

FURTHER ORDERED that leave to proceed *in forma pauperis* on appeal is denied without prejudice to the filing of a motion seeking leave to proceed *in forma pauperis* on appeal in the United States Court of Appeals for the Tenth Circuit. It is

FURTHER ORDERED that the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915 (ECF No. 4) is denied as moot.

DATED at Denver, Colorado, this 12th day of June, 2013.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court